

November 6, 2015

*VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED*

Berkeley City Transfer Station
Attention: Manuel Hector
1201 2nd Street
Berkeley, California 94710

City Clerk
Agent for Service of Process
City of Berkeley
2180 Milvia Street, 1st Floor
Berkeley, California 94704

Community Conservation Centers, Inc.
1563 Solano Avenue, #106
Berkeley, California 94707

Lisa Leland
Agent for Service of Process for
Community Conservation Centers, Inc.
199 Fremont Street, 21st Floor
San Francisco, California 94105

Re: Notice of Violation and Intent to File Suit under the Clean Water Act

Dear Sir or Madam:

I am writing on behalf of San Francisco Baykeeper ("Baykeeper") to give notice that Baykeeper intends to file a civil action against the City of Berkeley and Community Conservation Centers, Inc. (collectively, the "City") for violations of the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* ("Clean Water Act" or "CWA") at the Berkeley City Transfer Station ("BCTS") and Recycling Center ("RC"), located respectively at 1201 2nd Street and 669 Gilman Street in Berkeley, California (the "Facility").

Baykeeper is a non-profit public benefit corporation organized under the laws of California, with its office in Oakland, California. Baykeeper's purpose is to protect and enhance the water quality and natural resources of San Francisco Bay, its tributaries, and other waters in the Bay Area, for the benefit of its ecosystems and communities. Baykeeper has over three thousand members who use and enjoy San Francisco Bay and other waters for various recreational, educational, and spiritual purposes. Baykeeper's members' use and enjoyment of these waters are negatively affected by the pollution caused by the City's operations.

This letter addresses the City's unlawful discharge of pollutants from the Facility via stormwater into San Francisco Bay. Specifically, Baykeeper's investigation of the Facility has uncovered significant, ongoing, and continuous violations of the CWA and the General Industrial Stormwater Permit issued by the State of California (NPDES General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ ("1997 Permit") and by



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Order No. 2014-0057-DWQ (“2015 Permit”) (collectively, the “Industrial Stormwater Permit”).¹

CWA section 505(b) requires that sixty (60) days prior to the initiation of a civil action under CWA section 505(a), a citizen must give notice of his or her intent to file suit. 33 U.S.C. § 1365(b). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency (“EPA”), and the State in which the violations occur. As required by section 505(b), this Notice of Violation and Intent to File Suit provides notice to the City of the violations that have occurred and which continue to occur at the Facility. After the expiration of sixty (60) days from the date of this Notice of Violation and Intent to File Suit, Baykeeper intends to file suit in federal court against the City under CWA section 505(a) for the violations described more fully below.

During the 60-day notice period, Baykeeper is willing to discuss effective remedies for the violations noticed in this letter. We suggest that the City contact us within the next twenty (20) days so that these discussions may be completed by the conclusion of the 60-day notice period. Please note that we do not intend to delay the filing of a complaint in federal court, even if discussions are continuing when the notice period ends.

I. THE LOCATION OF THE ALLEGED VIOLATIONS

A. The Facility

The City’s Facility consists of two adjacent operations. The City owns and operates BCTS, located at 1201 2nd Street in Berkeley, California. BCTS accepts municipal, commercial, and private solid waste, to be transferred to a sanitary landfill, and also accepts green waste for composting. The City owns RC, a materials recycling facility located at 669 Gilman Street in Berkeley, California. RC is operated by Community Conservation Centers, Inc. RC processes all recyclables collected by residential curbside, commercial pick-up, buyback, and drop-off recycling programs. Potential pollutants from the Facility include pH, total suspended solids (“TSS”), chemical oxygen demand, oil and grease, heavy metals, antifreeze, fuel, battery acid, and other pollutants. Stormwater from the Facility discharges to the City’s storm drain system, which discharges to San Francisco Bay via the Gilman Street outfall.

B. The Affected Water

San Francisco Bay is a water of the United States. The CWA requires that water bodies such as San Francisco Bay meet water quality objectives that protect specific “beneficial uses.” The beneficial uses of San Francisco Bay and its tributaries include commercial and sport fishing, estuarine habitat, fish migration, navigation, preservation

¹ On April 1, 2014, the State Water Resources Control Board adopted 2015 Permit. As of July 1, 2015, the 2015 Permit superseded the 1997 Permit except for the purpose of enforcing violations of the 1997 Permit. 2015 Permit, Section I.A. (Finding 6).

of rare and endangered species, water contact and non-contact recreation, shellfish harvesting, fish spawning, and wildlife habitat. Contaminated stormwater from the Facility adversely affects the water quality of the San Francisco Bay watershed and threatens the beneficial uses and ecosystem of this watershed, which includes habitat for threatened and endangered species.

II. THE FACILITY'S VIOLATIONS OF THE CLEAN WATER ACT

It is unlawful to discharge pollutants to waters of the United States, such as San Francisco Bay and its tributaries, without an NPDES permit or in violation of the terms and conditions of an NPDES permit. CWA § 301(a), 33 U.S.C. § 1311(a); *see also* CWA § 402(p), 33 U.S.C. § 1342(p) (requiring NPDES permit issuance for the discharge of stormwater associated with industrial activities). The Industrial Stormwater Permit authorizes certain discharges of stormwater, conditioned on compliance with its terms.

On or around November 10, 1992, the City submitted a Notice of Intent ("NOI") to be authorized to discharge stormwater from the Facility under the 1997 Permit. On or around June 11, 2015, the City submitted an NOI to be authorized to discharge stormwater from the Facility under the 2015 Permit. However, information available to Baykeeper indicates that stormwater discharges from the Facility have violated several terms of the Industrial Stormwater Permit and the CWA. Apart from discharges that comply with the Industrial Stormwater Permit, the Facility lacks NPDES permit authorization for any other discharges of pollutants into waters of the United States.

A. Discharges in Excess of BAT/BCT Levels

The Effluent Limitations of the Industrial Stormwater Permit prohibit the discharge of pollutants from the Facility in concentrations above the level commensurate with the application of best available technology economically achievable ("BAT") for toxic pollutants² and best conventional pollutant control technology ("BCT") for conventional pollutants.³ 1997 Permit, Order Part B.3.; 2015 Permit, Section X.H. EPA has published Benchmark values set at the maximum pollutant concentration levels present if an industrial facility is employing BAT and BCT, as listed in Attachment 1 to this letter.⁴ The 2015 Permit incorporates these Benchmark values as "Numeric Action Levels." 2015 Permit, Section I.M. (Finding 62).

² BAT is defined at 40 C.F.R. § 442.23. Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead, and zinc, among others.

³ BCT is defined at 40 C.F.R. § 442.22. Conventional pollutants are listed at 40 C.F.R. § 401.16 and include BOD, TSS, oil and grease, pH, and fecal coliform.

⁴ The Benchmark values are part of EPA's Multi-Sector General Permit ("MSGP") and can be found at: <http://water.epa.gov/polwaste/npdes/stormwater/EPA-Multi-Sector-General-Permit-MSGP.cfm>. The most recent sector-specific Benchmarks can be found at: http://water.epa.gov/polwaste/npdes/stormwater/upload/msgp2015_part8.pdf ("2015 MSGP"). SIC Code 5093 is covered under Sector N in the 2015 MSGP.

The City's self-reported exceedances of Benchmark values over the last five (5) years, identified in Attachment 2 to this letter, indicate that the City has failed and is failing to employ measures that constitute BAT and BCT in violation of the requirements of the Industrial Stormwater Permit. Baykeeper alleges and notifies the City that its stormwater discharges from the Facility have consistently contained and continue to contain levels of pollutants that exceed Benchmark values for TSS, oil and grease, chemical oxygen demand, pH, aluminum, copper, iron, lead, and zinc.

The City's ongoing discharges of stormwater containing levels of pollutants above EPA Benchmark values and BAT- and BCT-based levels of control also demonstrate that the City has not developed and implemented sufficient Best Management Practices ("BMPs") at the Facility. Proper BMPs could include, but are not limited to, moving certain pollution-generating activities under cover or indoors, capturing and effectively filtering or otherwise treating all stormwater prior to discharge, frequent sweeping to reduce the build-up of pollutants on-site, installing filters in downspouts and storm drains, and other similar measures.

The City's failure to develop and/or implement adequate pollution controls to meet BAT and BCT at the Facility violates and will continue to violate the CWA and the Industrial Stormwater Permit each and every day the City discharges stormwater without meeting BAT/BCT. Baykeeper alleges that the City has discharged stormwater containing excessive levels of pollutants from the Facility to San Francisco Bay during at least every significant local rain event over 0.1 inches in the last five (5) years.⁵ Attachment 3 compiles all dates in the last five (5) years when a significant rain event occurred. The City is subject to civil penalties for each violation of the Industrial Stormwater Permit and the CWA within the past five (5) years.

B. Discharges Impairing Receiving Waters

The Industrial Stormwater Permit's Discharge Prohibitions disallow stormwater discharges that cause or threaten to cause pollution, contamination, or nuisance. *See* 1997 Permit, Order Part A.2.; 2015 Permit, Sections III.C., VI.C. The Industrial Stormwater Permit also prohibits stormwater discharges to surface or groundwater that adversely impact human health or the environment. 1997 Permit, Order Part C.1.; 2015 Permit, Section VI.B. Receiving Water Limitations of the Industrial Stormwater Permit prohibit stormwater discharges that cause or contribute to an exceedance of applicable Water Quality Standards ("WQS"). 1997 Permit, Order Part C.2.; 2015 Permit, Section VI.A. Applicable WQS are set forth in the California Toxics Rule ("CTR")⁶ and Chapter 3 of the San Francisco Bay Basin (Region 2) Water Quality Control Plan ("Basin Plan").⁷

⁵ Significant local rain events are reflected in the rain gauge data available at: <http://www.ncdc.noaa.gov/cdo-web/search>.

⁶ The CTR is set forth at 40 C.F.R. § 131.38 and is explained in the Federal Register preamble accompanying the CTR promulgation set forth at 65 Fed. Reg. 31,682 (May 18, 2000).

⁷ The Basin Plan is published by the San Francisco Bay Regional Water Quality Control Board at: http://www.waterboards.ca.gov/sanfranciscobay/basin_planning.shtml#2004basinplan.

See Attachment 1. Exceedances of WQS are violations of the Industrial Stormwater Permit, the CTR, and the Basin Plan.

The Basin Plan establishes WQS for San Francisco Bay and its tributaries, including but not limited to the following:

- Waters shall not contain substances in concentrations that result in the deposition of material that cause nuisance or adversely affect beneficial uses.
- Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.
- Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. Increases from normal background light penetration or turbidity relatable to waste discharge shall not be greater than 10 percent in areas where natural turbidity is greater than 50 NTU.
- All waters shall be maintained free of toxic substances in concentrations that are lethal to or that produce other detrimental responses in aquatic organisms.
- Surface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use. The Basin Plan, Table 3-3, identifies specific marine water quality objectives for toxic pollutants.⁸

Baykeeper alleges that the City's stormwater discharges have caused or contributed to exceedances of the Receiving Water Limitations in the Industrial Stormwater Permit and the WQS set forth in the Basin Plan and CTR. These allegations are based on the City's self-reported data submitted to the San Francisco Bay Regional Water Quality Control Board. The sampling results indicate that the City's discharges are causing or threatening to cause pollution, contamination, and/or nuisance; adversely impact human health or the environment; and violate applicable WQS. For example, the City's sampling results indicate exceedances of numeric WQS for pH, copper, lead, and zinc. *See Attachment 2.*

Baykeeper alleges that each day that the City has discharged stormwater from the Facility, the City's stormwater has contained levels of pollutants that exceeded one or more of the Receiving Water Limitations and/or applicable WQS in San Francisco Bay. Baykeeper alleges that the City has discharged stormwater exceeding Receiving Water Limitations and/or WQS from the Facility to San Francisco Bay during at least every significant local rain event over 0.1 inches in the last five (5) years. *See Attachment 3.*

⁸ Basin Plan, Table 3-3 is available at:
http://www.waterboards.ca.gov/rwqcb2/water_issues/programs/planningtmdls/basinplan/web/tab/tab_3-03.pdf.

Each discharge from the Facility that violates a Receiving Water Limitation or has caused or contributed, or causes or contributes, to an exceedance of an applicable WQS constitutes a separate violation of the Industrial Stormwater Permit and the CWA. The City is subject to penalties for each violation of the Industrial Stormwater Permit and the CWA within the last five (5) years.

C. Failure to Develop and Implement an Adequate Storm Water Pollution Prevention Plan

The Industrial Stormwater Permit requires dischargers to develop and implement an adequate Storm Water Pollution Prevention Plan ("SWPPP"). 1997 Permit, Section A.1.a. and Order Part E.2.; 2015 Permit, Sections I.I. (Finding 54), X.B. The Industrial Stormwater Permit also requires dischargers to make all necessary revisions to existing SWPPPs promptly. 1997 Permit, Order Part E.2.; 2015 Permit, Section X.B.

The SWPPP must include, among other requirements, the following: a site map, a list of significant materials handled and stored at the site, a description and assessment of all potential pollutant sources, a description of the BMPs that will reduce or prevent pollutants in stormwater discharges, and specifications of BMPs designed to reduce pollutant discharge to BAT and BCT levels. 1997 Permit, Sections A.1-A.10.; 2015 Permit, Section X. Moreover, the Industrial Stormwater Permit requires dischargers to evaluate and revise SWPPPs to ensure they meet these minimum requirements, in particular that the necessary BMPs are in place and being implemented. *See* 1997 Permit, Section A.9. (requiring a comprehensive site compliance evaluation completed each reporting year, and revisions to the SWPPP implemented within 90 days after the evaluation); 2015 Permit, Section X.D.2.a. (obligating the discharger to "ensure its SWPPP is developed, implemented and revised as necessary to be consistent with any applicable municipal, state, and federal requirements that pertain to the requirements in [the 2015 Permit]."). Additionally, the Industrial Stormwater Permit requires that the City assess its stormwater sampling data and identify any additional parameters, beyond those explicitly required, that indicate the presence of pollutants in industrial stormwater. *See* 1997 Permit, Section Section B.5.c.ii.; 2015 Permit, Section X.G.2.d.

Based on information available to Baykeeper, the City has failed to prepare and/or implement an adequate SWPPP and/or to revise the SWPPP to satisfy each of the requirements of the Industrial Stormwater Permit. For example, the City's past or current SWPPP has not/does not include and/or the City has not implemented adequate BMPs designed to reduce pollutant levels in discharges to BAT and BCT levels in accordance with the Industrial Stormwater Permit, as evidenced by the data in Attachment 2. Over the past five (5) years, the City's stormwater sampling data has consistently indicated that the City needs to implement BMPs to control for copper in its stormwater discharges. However, the City's 2015 SWPPP fails to list copper as a parameter to be analyzed.

Accordingly, the City has violated the CWA each and every day that it has failed to develop and/or implement an adequate SWPPP meeting all of the requirements of the Industrial Stormwater Permit, and the City will continue to be in violation every day until

it develops and implements an adequate SWPPP. The City is subject to penalties for each violation of the Industrial Stormwater Permit and the CWA occurring within the past five (5) years.

D. Failure to Properly Sample Stormwater Discharges

The City is also in violation of the Industrial Stormwater Permit because it has been collecting stormwater samples that do not adequately reflect pollution coming from its industrial activities. Section B.7.a. of the 1997 Permit required the City to “collect samples of stormwater discharges from all drainage areas that represent the quality and quantity of the facility’s storm water discharges.” Section B.5.c.ii. of the 1997 Permit required facilities to sample for “[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities.” Section B.5.c.iii. of the 1997 Permit and Section XI.B.6. of the 2015 Permit require facilities to sample for specific analytical parameters based on their standard industrial classification (“SIC”) code. For facilities that fall into SIC Code 5093, scrap and waste materials, these parameters are iron, lead, aluminum, zinc, and chemical oxygen demand. The City self-classified the Facility under SIC code 5093, but has failed to consistently test its samples for these parameters and thus has failed to comply with Sections B.5.c. and B.7.a. of the 1997 Permit and Section XI.B.6. of the 2015 Permit.

As a result of the City’s failure to properly sample stormwater discharges from its Facility, the City has been in daily and continuous violation of the Industrial Stormwater Permit and the CWA each and every day for the past five (5) years. These violations are ongoing. The City will continue to be in violation of the sampling requirements each day that the City fails to adequately develop and/or implement an effective sampling program at the Facility. The City is subject to penalties for each violation of the Industrial Stormwater Permit and the CWA occurring for the last five (5) years.

E. Unpermitted Discharges

Section 301(a) of the CWA prohibits the discharge of any pollutant into waters of the United States unless the discharge is authorized by a NPDES permit issued pursuant to section 402 of the CWA. *See* 33 U.S.C. §§ 1311(a), 1342. The City sought coverage for the Facility under the Industrial Stormwater Permit, which states that any discharge from an industrial facility not in compliance with the Industrial Stormwater Permit “must be either eliminated or permitted by a separate NPDES permit.” 1997 Permit, Order Part A.1.; *see also* 2015 Permit, Sections I.A. (Finding 8) and I.C. (Finding 28).

Because the City has not obtained coverage under a separate NPDES permit and has failed to eliminate discharges not permitted by the Industrial Stormwater Permit, each and every discharge from the Facility described herein not in compliance with the Industrial Stormwater Permit has constituted and will continue to constitute a discharge without CWA permit coverage in violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a).

IV. PERSONS RESPONSIBLE FOR THE VIOLATIONS.

The City of Berkeley and Community Conservation Centers, Inc. are the persons responsible for the violations at the Facility described above.

V. NAME AND ADDRESS OF NOTICING PARTY

San Francisco Baykeeper
1736 Franklin Street, Suite 800
Oakland, CA 94612
(510) 735-9700

VI. COUNSEL

Baykeeper is represented by the following counsel in this matter, to whom all communications should be directed:

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George Torgun, Managing Attorney
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VII. REMEDIES.

Baykeeper intends, at the close of the 60-day notice period or thereafter, to file a citizen suit under CWA section 505(a) against the City for the above-referenced violations. Baykeeper will seek declaratory and injunctive relief to prevent further CWA violations pursuant to CWA sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), and such other relief as permitted by law. In addition, Baykeeper will seek civil penalties pursuant to CWA section 309(d), 33 U.S.C. § 1319(d), and 40 C.F.R. § 19.4, against the City in this action. The CWA imposes civil penalty liability of up to \$37,500 per day per violation for violations occurring after January 12, 2009. 33 U.S.C. § 1319(d); 40 C.F.R. § 19.4. Baykeeper will seek to recover attorneys' fees, experts' fees, and costs in accordance with CWA section 505(d), 33 U.S.C. § 1365(d).

As noted above, Baykeeper is willing to meet with you during the 60-day notice period to discuss effective remedies for the violations noted in this letter. Please contact me or George Torgun to initiate these discussions.

Sincerely,



Nicole C. Sasaki
Associate Attorney
San Francisco Baykeeper

Cc:

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
Mail Code: 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Jared Blumenfeld, Regional Administrator
U.S. EPA, Region 9
75 Hawthorne Street
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Bruce Wolfe, Executive Officer
Regional Water Quality Control Board
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1515 Clay Street, Suite 1400
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Thomas Howard, Executive Director
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

**Attachment 1: EPA Benchmarks and
Water Quality Standards for Discharges to Saltwater**

**A. EPA Benchmarks, 2000 and 2015
Multi-Sector General Permit (“MSGP”)**

Parameter	Units	Benchmark value	Source
pH	SU	6.0 – 9.0	2015 MSGP
Total Suspended Solids	mg/L	100	2015 MSGP
Chemical Oxygen Demand	mg/L	120	2015 MSGP
Oil and Grease	mg/L	15	2000 MSGP
Aluminum Total	mg/L	0.75	2015 MSGP
Copper Total	mg/L	0.0048	2015 MSGP
Iron Total	mg/L	1.0	2015 MSGP
Lead Total	mg/L	0.21	2015 MSGP
Zinc Total	mg/L	0.09	2015 MSGP

B. Water Quality Standards (Basin Plan, Tables 3-3, 3-3A)

Parameter	Units	WQS value	Source
pH	SU	6.5 – 8.5	Basin Plan
Copper	mg/L	0.0094	Basin Plan
Lead	mg/L	0.21	Basin Plan
Zinc	mg/L	0.09	Basin Plan

Attachment 2: Table of Exceedances for Berkeley City Transfer Station and Recycling Center

Table containing each stormwater sampling result which exceeds EPA Benchmarks and/or causes or contributes to an exceedance of Basin Plan Water Quality Standards. The EPA Benchmarks and Basin Plan Water Quality Standards are listed in Attachment 1. All stormwater samples were reported by the Facility during the past five (5) years.

Reporting Period	Sample Location	Sample Date	Parameter	Result	Unit
2010-2011	DP-1	12/8/2010	Chemical Oxygen Demand	880	mg/L
2010-2011	DP-2	12/8/2010	Chemical Oxygen Demand	230	mg/L
2010-2011	DP-3	12/8/2010	Chemical Oxygen Demand	290	mg/L
2010-2011	DP-4	12/8/2010	Chemical Oxygen Demand	430	mg/L
2010-2011	DP-1	12/8/2010	Copper Total	0.19	mg/L
2010-2011	DP-2	12/8/2010	Copper Total	0.088	mg/L
2010-2011	DP-3	12/8/2010	Copper Total	0.047	mg/L
2010-2011	DP-4	12/8/2010	Copper Total	0.21	mg/L
2010-2011	DP-1	12/8/2010	Lead Total	0.34	mg/L
2010-2011	DP-3	12/8/2010	Lead Total	0.27	mg/L
2010-2011	DP-1	12/8/2010	Oil and Grease	66	mg/L
2010-2011	DP-2	12/8/2010	Oil and Grease	20	mg/L
2010-2011	DP-3	12/8/2010	Oil and Grease	29	mg/L
2010-2011	DP-4	12/8/2010	Oil and Grease	44	mg/L
2010-2011	DP-1	12/8/2010	Total Suspended Solids	900	mg/L
2010-2011	DP-2	12/8/2010	Total Suspended Solids	278	mg/L
2010-2011	DP-3	12/8/2010	Total Suspended Solids	328	mg/L
2010-2011	DP-4	12/8/2010	Total Suspended Solids	830	mg/L
2010-2011	DP-1	12/8/2010	Zinc Total	2.9	mg/L
2010-2011	DP-2	12/8/2010	Zinc Total	0.82	mg/L
2010-2011	DP-3	12/8/2010	Zinc Total	0.58	mg/L
2010-2011	DP-4	12/8/2010	Zinc Total	1.2	mg/L
2010-2011	DP-1	5/25/2011	Chemical Oxygen Demand	1700	mg/L
2010-2011	DP-2	5/25/2011	Chemical Oxygen Demand	360	mg/L
2010-2011	DP-3	5/25/2011	Chemical Oxygen Demand	330	mg/L
2010-2011	DP-4	5/25/2011	Chemical Oxygen Demand	220	mg/L
2010-2011	DP-1	5/25/2011	Copper Total	0.68	mg/L
2010-2011	DP-2	5/25/2011	Copper Total	0.076	mg/L
2010-2011	DP-3	5/25/2011	Copper Total	0.061	mg/L
2010-2011	DP-4	5/25/2011	Copper Total	0.042	mg/L
2010-2011	DP-1	5/25/2011	Lead Total	1	mg/L
2010-2011	DP-1	5/25/2011	Oil and Grease	18	mg/L
2010-2011	DP-1	5/25/2011	Total Suspended Solids	1920	mg/L
2010-2011	DP-2	5/25/2011	Total Suspended Solids	372	mg/L
2010-2011	DP-4	5/25/2011	Total Suspended Solids	130	mg/L
2010-2011	DP-1	5/25/2011	Zinc Total	9	mg/L
2010-2011	DP-2	5/25/2011	Zinc Total	0.68	mg/L

2010-2011	DP-3	5/25/2011	Zinc Total	0.85	mg/L
2010-2011	DP-4	5/25/2011	Zinc Total	0.41	mg/L
2011-2012	DP-1	10/6/2011	Aluminum Total	2.2	mg/L
2011-2012	DP-2	10/6/2011	Aluminum Total	0.8	mg/L
2011-2012	DP-3	10/6/2011	Aluminum Total	1.4	mg/L
2011-2012	DP-4	10/6/2011	Aluminum Total	0.97	mg/L
2011-2012	DP-1	10/6/2011	Chemical Oxygen Demand	340	mg/L
2011-2012	DP-2	10/6/2011	Chemical Oxygen Demand	170	mg/L
2011-2012	DP-3	10/6/2011	Chemical Oxygen Demand	330	mg/L
2011-2012	DP-4	10/6/2011	Chemical Oxygen Demand	310	mg/L
2011-2012	DP-1	10/6/2011	Copper Total	0.045	mg/L
2011-2012	DP-2	10/6/2011	Copper Total	0.027	mg/L
2011-2012	DP-3	10/6/2011	Copper Total	0.11	mg/L
2011-2012	DP-4	10/6/2011	Copper Total	0.043	mg/L
2011-2012	DP-1	10/6/2011	Iron Total	2.8	mg/L
2011-2012	DP-2	10/6/2011	Iron Total	1.4	mg/L
2011-2012	DP-3	10/6/2011	Iron Total	2.4	mg/L
2011-2012	DP-4	10/6/2011	Iron Total	2.5	mg/L
2011-2012	DP-3	10/6/2011	Oil and Grease	36.9	mg/L
2011-2012	DP-4	10/6/2011	Oil and Grease	19	mg/L
2011-2012	DP-1	10/6/2011	pH	6.4	SU
2011-2012	DP-3	10/6/2011	pH	5.8	SU
2011-2012	DP-4	10/6/2011	pH	5.9	SU
2011-2012	DP-1	10/6/2011	Total Suspended Solids	120	mg/L
2011-2012	DP-2	10/6/2011	Total Suspended Solids	470	mg/L
2011-2012	DP-3	10/6/2011	Total Suspended Solids	310	mg/L
2011-2012	DP-4	10/6/2011	Total Suspended Solids	210	mg/L
2011-2012	DP-1	10/6/2011	Zinc Total	0.26	mg/L
2011-2012	DP-2	10/6/2011	Zinc Total	0.41	mg/L
2011-2012	DP-3	10/6/2011	Zinc Total	0.92	mg/L
2011-2012	DP-4	10/6/2011	Zinc Total	0.43	mg/L
2011-2012	DP-1	3/13/2012	Aluminum Total	2.7	mg/L
2011-2012	DP-2	3/13/2012	Aluminum Total	0.77	mg/L
2011-2012	DP-3	3/13/2012	Aluminum Total	0.97	mg/L
2011-2012	DP-4	3/13/2012	Aluminum Total	1.0	mg/L
2011-2012	DP-1	3/13/2012	Chemical Oxygen Demand	410	mg/L
2011-2012	DP-3	3/13/2012	Chemical Oxygen Demand	220	mg/L
2011-2012	DP-4	3/13/2012	Chemical Oxygen Demand	210	mg/L
2011-2012	DP-1	3/13/2012	Copper Total	0.061	mg/L
2011-2012	DP-2	3/13/2012	Copper Total	0.021	mg/L
2011-2012	DP-3	3/13/2012	Copper Total	0.025	mg/L
2011-2012	DP-4	3/13/2012	Copper Total	0.035	mg/L
2011-2012	DP-1	3/13/2012	Iron Total	4.1	mg/L
2011-2012	DP-2	3/13/2012	Iron Total	1.3	mg/L
2011-2012	DP-3	3/13/2012	Iron Total	1.9	mg/L
2011-2012	DP-4	3/13/2012	Iron Total	2.4	mg/L
2011-2012	DP-1	3/13/2012	Oil and Grease	16.2	mg/L

2011-2012	DP-3	3/13/2012	Oil and Grease	17.7	mg/L
2011-2012	DP-4	3/13/2012	pH	6.0	SU
2011-2012	DP-1	3/13/2012	Total Suspended Solids	540	mg/L
2011-2012	DP-3	3/13/2012	Total Suspended Solids	140	mg/L
2011-2012	DP-4	3/13/2012	Total Suspended Solids	180	mg/L
2011-2012	DP-1	3/13/2012	Zinc Total	0.61	mg/L
2011-2012	DP-2	3/13/2012	Zinc Total	0.22	mg/L
2011-2012	DP-3	3/13/2012	Zinc Total	0.4	mg/L
2011-2012	DP-4	3/13/2012	Zinc Total	0.43	mg/L
2012-2013	DP-1	11/28/2012	Chemical Oxygen Demand	1100	mg/L
2012-2013	DP-5	11/28/2012	Chemical Oxygen Demand	140	mg/L
2012-2013	DP-6	11/28/2012	Chemical Oxygen Demand	5300	mg/L
2012-2013	DP-7	11/28/2012	Chemical Oxygen Demand	130	mg/L
2012-2013	DP-1	11/28/2012	Copper Total	0.053	mg/L
2012-2013	DP-2	11/28/2012	Copper Total	0.04	mg/L
2012-2013	DP-3	11/28/2012	Copper Total	0.02	mg/L
2012-2013	DP-5	11/28/2012	Copper Total	0.022	mg/L
2012-2013	DP-6	11/28/2012	Copper Total	0.13	mg/L
2012-2013	DP-7	11/28/2012	Copper Total	0.041	mg/L
2012-2013	DP-9	11/28/2012	Copper Total	0.017	mg/L
2012-2013	DP-1	11/28/2012	Oil and Grease	35	mg/L
2012-2013	DP-6	11/28/2012	Oil and Grease	234	mg/L
2012-2013	DP-7	11/28/2012	Oil and Grease	15.3	mg/L
2012-2013	DP-1	11/28/2012	pH	4.9	SU
2012-2013	DP-2	11/28/2012	pH	5.8	SU
2012-2013	DP-3	11/28/2012	pH	6.2	SU
2012-2013	DP-5	11/28/2012	pH	5.8	SU
2012-2013	DP-6	11/28/2012	pH	5.9	SU
2012-2013	DP-7	11/28/2012	pH	6.4	SU
2012-2013	DP-9	11/28/2012	pH	6.1	SU
2012-2013	DP-1	11/28/2012	Total Suspended Solids	350	mg/L
2012-2013	DP-2	11/28/2012	Total Suspended Solids	1280	mg/L
2012-2013	DP-5	11/28/2012	Total Suspended Solids	310	mg/L
2012-2013	DP-6	11/28/2012	Total Suspended Solids	1040	mg/L
2012-2013	DP-7	11/28/2012	Total Suspended Solids	140	mg/L
2012-2013	DP-1	11/28/2012	Zinc Total	0.64	mg/L
2012-2013	DP-2	11/28/2012	Zinc Total	0.36	mg/L
2012-2013	DP-3	11/28/2012	Zinc Total	0.24	mg/L
2012-2013	DP-5	11/28/2012	Zinc Total	0.35	mg/L
2012-2013	DP-6	11/28/2012	Zinc Total	1.9	mg/L
2012-2013	DP-7	11/28/2012	Zinc Total	0.57	mg/L
2012-2013	DP-9	11/28/2012	Zinc Total	0.22	mg/L
2013-2014	DP-1A	11/19/2013	Chemical Oxygen Demand	920	mg/L
2013-2014	DP-2A	11/19/2013	Chemical Oxygen Demand	790	mg/L
2013-2014	DP-3A	11/19/2013	Chemical Oxygen Demand	3100	mg/L
2013-2014	DP-4A	11/19/2013	Chemical Oxygen Demand	840	mg/L
2013-2014	DP-5	11/19/2013	Chemical Oxygen Demand	530	mg/L

2013-2014	DP-6	11/19/2013	Chemical Oxygen Demand	1900	mg/L
2013-2014	DP-7	11/19/2013	Chemical Oxygen Demand	590	mg/L
2013-2014	DP-8A	11/19/2013	Chemical Oxygen Demand	600	mg/L
2013-2014	DP-9	11/19/2013	Chemical Oxygen Demand	360	mg/L
2013-2014	DP-1A	11/19/2013	Copper Total	0.018	mg/L
2013-2014	DP-2A	11/19/2013	Copper Total	0.14	mg/L
2013-2014	DP-3A	11/19/2013	Copper Total	0.17	mg/L
2013-2014	DP-4A	11/19/2013	Copper Total	0.053	mg/L
2013-2014	DP-5	11/19/2013	Copper Total	0.1	mg/L
2013-2014	DP-6	11/19/2013	Copper Total	0.19	mg/L
2013-2014	DP-7	11/19/2013	Copper Total	0.16	mg/L
2013-2014	DP-8A	11/19/2013	Copper Total	0.069	mg/L
2013-2014	DP-9	11/19/2013	Copper Total	0.1	mg/L
2013-2014	DP-1A	11/19/2013	Oil and Grease	23.5	mg/L
2013-2014	DP-2A	11/19/2013	Oil and Grease	23.2	mg/L
2013-2014	DP-3A	11/19/2013	Oil and Grease	81.5	mg/L
2013-2014	DP-6	11/19/2013	Oil and Grease	48.1	mg/L
2013-2014	DP-5	11/19/2013	pH	6.3	SU
2013-2014	DP-1A	11/19/2013	Total Suspended Solids	250	mg/L
2013-2014	DP-2A	11/19/2013	Total Suspended Solids	500	mg/L
2013-2014	DP-3A	11/19/2013	Total Suspended Solids	740	mg/L
2013-2014	DP-4A	11/19/2013	Total Suspended Solids	230	mg/L
2013-2014	DP-6	11/19/2013	Total Suspended Solids	230	mg/L
2013-2014	DP-7	11/19/2013	Total Suspended Solids	110	mg/L
2013-2014	DP-8A	11/19/2013	Total Suspended Solids	140	mg/L
2013-2014	DP-1A	11/19/2013	Zinc Total	0.71	mg/L
2013-2014	DP-2A	11/19/2013	Zinc Total	0.88	mg/L
2013-2014	DP-3A	11/19/2013	Zinc Total	1.5	mg/L
2013-2014	DP-4A	11/19/2013	Zinc Total	0.41	mg/L
2013-2014	DP-5	11/19/2013	Zinc Total	1.7	mg/L
2013-2014	DP-6	11/19/2013	Zinc Total	1.6	mg/L
2013-2014	DP-7	11/19/2013	Zinc Total	1.3	mg/L
2013-2014	DP-8A	11/19/2013	Zinc Total	0.89	mg/L
2013-2014	DP-9	11/19/2013	Zinc Total	0.91	mg/L
2013-2014	DP-1A	2/26/2014	Aluminum Total	9.7	mg/L
2013-2014	DP-2A	2/26/2014	Aluminum Total	6.2	mg/L
2013-2014	DP-3A	2/26/2014	Aluminum Total	0.76	mg/L
2013-2014	DP-4A	2/26/2014	Aluminum Total	7.3	mg/L
2013-2014	DP-5	2/26/2014	Aluminum Total	8.6	mg/L
2013-2014	DP-6	2/26/2014	Aluminum Total	7	mg/L
2013-2014	DP-7	2/26/2014	Aluminum Total	4.8	mg/L
2013-2014	DP-8A	2/26/2014	Aluminum Total	7.4	mg/L
2013-2014	DP-9	2/26/2014	Aluminum Total	4.9	mg/L
2013-2014	DP-1A	2/26/2014	Chemical Oxygen Demand	9200	mg/L
2013-2014	DP-2A	2/26/2014	Chemical Oxygen Demand	310	mg/L
2013-2014	DP-3A	2/26/2014	Chemical Oxygen Demand	320	mg/L
2013-2014	DP-4A	2/26/2014	Chemical Oxygen Demand	1400	mg/L

2013-2014	DP-5	2/26/2014	Chemical Oxygen Demand	2200	mg/L
2013-2014	DP-6	2/26/2014	Chemical Oxygen Demand	850	mg/L
2013-2014	DP-7	2/26/2014	Chemical Oxygen Demand	870	mg/L
2013-2014	DP-8A	2/26/2014	Chemical Oxygen Demand	550	mg/L
2013-2014	DP-9	2/26/2014	Chemical Oxygen Demand	330	mg/L
2013-2014	DP-1A	2/26/2014	Copper Total	0.19	mg/L
2013-2014	DP-2A	2/26/2014	Copper Total	0.072	mg/L
2013-2014	DP-3A	2/26/2014	Copper Total	0.02	mg/L
2013-2014	DP-4A	2/26/2014	Copper Total	0.12	mg/L
2013-2014	DP-5	2/26/2014	Copper Total	0.19	mg/L
2013-2014	DP-6	2/26/2014	Copper Total	0.17	mg/L
2013-2014	DP-7	2/26/2014	Copper Total	0.15	mg/L
2013-2014	DP-8A	2/26/2014	Copper Total	0.15	mg/L
2013-2014	DP-9	2/26/2014	Copper Total	0.047	mg/L
2013-2014	DP-1A	2/26/2014	Iron Total	27	mg/L
2013-2014	DP-2A	2/26/2014	Iron Total	9.4	mg/L
2013-2014	DP-3A	2/26/2014	Iron Total	3.4	mg/L
2013-2014	DP-4A	2/26/2014	Iron Total	14	mg/L
2013-2014	DP-5	2/26/2014	Iron Total	22	mg/L
2013-2014	DP-6	2/26/2014	Iron Total	15	mg/L
2013-2014	DP-7	2/26/2014	Iron Total	9.2	mg/L
2013-2014	DP-8A	2/26/2014	Iron Total	17	mg/L
2013-2014	DP-9	2/26/2014	Iron Total	8.9	mg/L
2013-2014	DP-1A	2/26/2014	Lead Total	0.23	mg/L
2013-2014	DP-4A	2/26/2014	Lead Total	0.21	mg/L
2013-2014	DP-1A	2/26/2014	Oil and Grease	20.5	mg/L
2013-2014	DP-4A	2/26/2014	Oil and Grease	31.4	mg/L
2013-2014	DP-5	2/26/2014	Oil and Grease	96.4	mg/L
2013-2014	DP-6	2/26/2014	Oil and Grease	26.1	mg/L
2013-2014	DP-7	2/26/2014	Oil and Grease	17.7	mg/L
2013-2014	DP-8A	2/26/2014	Oil and Grease	32.3	mg/L
2013-2014	DP-1A	2/26/2014	pH	4.2	SU
2013-2014	DP-3A	2/26/2014	pH	8.7	SU
2013-2014	DP-1A	2/26/2014	Total Suspended Solids	600	mg/L
2013-2014	DP-2A	2/26/2014	Total Suspended Solids	360	mg/L
2013-2014	DP-3A	2/26/2014	Total Suspended Solids	220	mg/L
2013-2014	DP-4A	2/26/2014	Total Suspended Solids	320	mg/L
2013-2014	DP-5	2/26/2014	Total Suspended Solids	720	mg/L
2013-2014	DP-6	2/26/2014	Total Suspended Solids	490	mg/L
2013-2014	DP-7	2/26/2014	Total Suspended Solids	370	mg/L
2013-2014	DP-8A	2/26/2014	Total Suspended Solids	800	mg/L
2013-2014	DP-9	2/26/2014	Total Suspended Solids	180	mg/L
2013-2014	DP-1A	2/26/2014	Zinc Total	0.6	mg/L
2013-2014	DP-3A	2/26/2014	Zinc Total	0.19	mg/L
2013-2014	DP-4A	2/26/2014	Zinc Total	1.1	mg/L
2013-2014	DP-5	2/26/2014	Zinc Total	1.6	mg/L
2013-2014	DP-6	2/26/2014	Zinc Total	1.6	mg/L

2013-2014	DP-7	2/26/2014	Zinc Total	1.4	mg/L
2013-2014	DP-8A	2/26/2014	Zinc Total	1.2	mg/L
2013-2014	DP-9	2/26/2014	Zinc Total	0.85	mg/L
2014-2015	DP-1A	10/31/2014	Aluminum Total	6.6	mg/L
2014-2015	DP-2A	10/31/2014	Aluminum Total	17	mg/L
2014-2015	DP-3A	10/31/2014	Aluminum Total	28	mg/L
2014-2015	DP-5	10/31/2014	Aluminum Total	6.6	mg/L
2014-2015	DP-6	10/31/2014	Aluminum Total	3.9	mg/L
2014-2015	DP-7	10/31/2014	Aluminum Total	2.9	mg/L
2014-2015	DP-8A	10/31/2014	Aluminum Total	3.9	mg/L
2014-2015	DP-9	10/31/2014	Aluminum Total	5.4	mg/L
2014-2015	DP-1A	10/31/2014	Chemical Oxygen Demand	3900	mg/L
2014-2015	DP-2A	10/31/2014	Chemical Oxygen Demand	700	mg/L
2014-2015	DP-3A	10/31/2014	Chemical Oxygen Demand	2400	mg/L
2014-2015	DP-5	10/31/2014	Chemical Oxygen Demand	3200	mg/L
2014-2015	DP-6	10/31/2014	Chemical Oxygen Demand	820	mg/L
2014-2015	DP-7	10/31/2014	Chemical Oxygen Demand	210	mg/L
2014-2015	DP-8A	10/31/2014	Chemical Oxygen Demand	240	mg/L
2014-2015	DP-9	10/31/2014	Chemical Oxygen Demand	200	mg/L
2014-2015	DP-1A	10/31/2014	Iron Total	11	mg/L
2014-2015	DP-2A	10/31/2014	Iron Total	23	mg/L
2014-2015	DP-3A	10/31/2014	Iron Total	40	mg/L
2014-2015	DP-5	10/31/2014	Iron Total	23	mg/L
2014-2015	DP-6	10/31/2014	Iron Total	13	mg/L
2014-2015	DP-7	10/31/2014	Iron Total	5.5	mg/L
2014-2015	DP-8A	10/31/2014	Iron Total	8.7	mg/L
2014-2015	DP-9	10/31/2014	Iron Total	10	mg/L
2014-2015	DP-1A	10/31/2014	Lead Total	0.39	mg/L
2014-2015	DP-3A	10/31/2014	Lead Total	0.62	mg/L
2014-2015	DP-7	10/31/2014	Lead Total	0.23	mg/L
2014-2015	DP-1A	10/31/2014	Oil and Grease	66.3	mg/L
2014-2015	DP-2A	10/31/2014	Oil and Grease	27.6	mg/L
2014-2015	DP-3A	10/31/2014	Oil and Grease	20.9	mg/L
2014-2015	DP-5	10/31/2014	Oil and Grease	72.8	mg/L
2014-2015	DP-1A	10/31/2014	pH	6.0	SU
2014-2015	DP-1A	10/31/2014	Total Suspended Solids	1480	mg/L
2014-2015	DP-2A	10/31/2014	Total Suspended Solids	660	mg/L
2014-2015	DP-3A	10/31/2014	Total Suspended Solids	1680	mg/L
2014-2015	DP-5	10/31/2014	Total Suspended Solids	320	mg/L
2014-2015	DP-6	10/31/2014	Total Suspended Solids	130	mg/L
2014-2015	DP-7	10/31/2014	Total Suspended Solids	130	mg/L
2014-2015	DP-8A	10/31/2014	Total Suspended Solids	230	mg/L
2014-2015	DP-9	10/31/2014	Total Suspended Solids	240	mg/L
2014-2015	DP-1A	10/31/2014	Zinc Total	1.6	mg/L
2014-2015	DP-1A	10/31/2014	Zinc Total	0.57	mg/L
2014-2015	DP-2A	10/31/2014	Zinc Total	1.0	mg/L
2014-2015	DP-3A	10/31/2014	Zinc Total	2.2	mg/L

2014-2015	DP-5	10/31/2014	Zinc Total	3.2	mg/L
2014-2015	DP-6	10/31/2014	Zinc Total	1.6	mg/L
2014-2015	DP-8A	10/31/2014	Zinc Total	0.7	mg/L
2014-2015	DP-9	10/31/2014	Zinc Total	1.0	mg/L
2014-2015	DP-1A	2/6/2015	Aluminum Total	8.5	mg/L
2014-2015	DP-2A	2/6/2015	Aluminum Total	14	mg/L
2014-2015	DP-3A	2/6/2015	Aluminum Total	40	mg/L
2014-2015	DP-1A	2/6/2015	Chemical Oxygen Demand	6100	mg/L
2014-2015	DP-2A	2/6/2015	Chemical Oxygen Demand	510	mg/L
2014-2015	DP-3A	2/6/2015	Chemical Oxygen Demand	470	mg/L
2014-2015	DP-1A	2/6/2015	Iron Total	43	mg/L
2014-2015	DP-2A	2/6/2015	Iron Total	17	mg/L
2014-2015	DP-3A	2/6/2015	Iron Total	39	mg/L
2014-2015	DP-1A	2/6/2015	Oil and Grease	29.1	mg/L
2014-2015	DP-2A	2/6/2015	Oil and Grease	20.4	mg/L
2014-2015	DP-1A	2/6/2015	pH	6.4	SU
2014-2015	DP-1A	2/6/2015	Total Suspended Solids	760	mg/L
2014-2015	DP-2A	2/6/2015	Total Suspended Solids	390	mg/L
2014-2015	DP-3A	2/6/2015	Total Suspended Solids	520	mg/L
2014-2015	DP-1A	2/6/2015	Zinc Total	0.98	mg/L
2014-2015	DP-2A	2/6/2015	Zinc Total	0.89	mg/L
2014-2015	DP-3A	2/6/2015	Zinc Total	1.2	mg/L

Attachment 3: Alleged Dates of Exceedances by Berkeley City Transfer Station and Recycling Center, November 7, 2010 to November 6, 2015

Days with precipitation one-tenth of an inch or greater, as reported by NOAA's National Climatic Data Center; Berkeley, California station, GHCND:US1CAAL0020* when a stormwater discharge from the Facility is likely to have occurred. <http://www.ncdc.noaa.gov/cdo-web/search>

2010	2011	2012	2013	2014	2015
11/7	1/1	1/19	1/7	2/2	2/7
11/19	1/2	1/20	1/23	2/5	2/8
11/20	1/13	1/21	2/7	2/6	2/9
11/21	1/29	1/22	2/19	2/7	3/23
11/23	1/30	1/23	3/5	2/8	4/7
11/27	2/14	2/7	3/6	2/9	6/11
12/5	2/15	2/12	3/19	2/26	11/2
12/6	2/16	2/13	3/20	2/28	11/3
12/8	2/17	2/15	3/31	3/5	
12/9	2/18	2/29	4/1	3/26	
12/14	2/19	3/1	4/4	3/27	
12/17	2/24	3/13	6/25	3/29	
12/18	2/25	3/14	9/21	3/31	
12/19	3/2	3/15	11/19	4/1	
12/21	3/6	3/16	11/20	4/4	
12/22	3/13	3/24	12/6	4/25	
12/25	3/14	3/25		9/25	
12/28	3/15	3/27		10/25	
12/29	3/18	3/31		10/31	
	3/19	4/10		11/19	
	3/20	4/11		11/20	
	3/22	4/12		11/22	
	3/23	4/17		11/29	
	3/24	4/26		11/30	
	3/25	10/22		12/2	
	3/26	10/23		12/3	
	4/21	10/31		12/6	
	4/24	11/1		12/11	
	5/14	11/9		12/12	
	5/15	11/16*		12/14	
	5/16	11/17*		12/15	
	5/17	11/18*		12/16	
	5/25	11/28*		12/17	
	5/28	11/30		12/19	
	5/31	12/3			
	6/4	12/5			
	6/28	12/12			
	6/29*	12/17			
	10/3	12/22*			
	10/4	12/23*			
	10/5	12/26*			

* Data reported by Richmond, California station, GHCND:US00047414.

	10/6	12/29*			
	10/10	12/31			
	10/11				
	11/3				
	11/5				
	11/11				
	11/18				
	11/19				
	11/20				
	11/24				

